

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

Dante McNair,
Petitioner

The Government is to
respond to this submission
by 12/14/20.

v

MEMO ENDORSED

Civil Action No.: _____

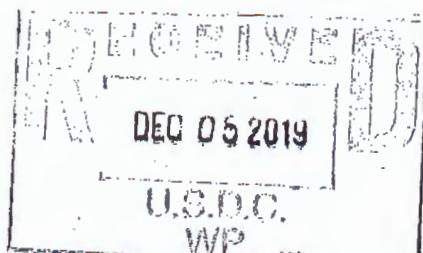
SO ORDERED

Criminal Action No: 16-CR-666 (KMK)

AKM
12/12/19

United States of America

MOTION FOR MODIFICATION OF SENTENCE
PURSUANT TO 18 USC 3582
IN LIGHT OF SUPREME COURT DECISION
ON JUNE 24TH 2019; REGARDING
(U.S. V. DAVIS) NO. 18431
UNDER 18 USC 924(c)(1)(A), (3)(B);
FINDING TO NOW BE UNCONSTITUTIONALLY
VAGUE AND CANNOT STAND.



NOW COMES Dante McNair, pro se (hereinafter "Petitioner" or "Mr. McNair"), in the above-captioned matter; and hereby requests that this Honorable Court reconsider its previous determination, pursuant to the recent Supreme Court decision in (U.S. v. Davis) No. 18431 (See Attachment #1 - the Ruling and Court Opinion), and reduce the sentence of Mr. McNair; using the same justification and thoughtful consideration of sentencing Petitioner below the Guideline Range to start at Level 27 (and not 29). Thus, the removal of the 2 point enhancement levied against Petitioner at sentencing under Section 2D1.1(b)(1) Firearm in Connection with charge of narcotics conspiracy, now falling under the Residual Clause; is now considered unconstitutionally vague and cannot stand; and must be removed as a matter of law. As for reasons thereof, Mr. McNair respectfully states the following:

I. BACKGROUND

Petitioner on or around February 6, 2018 plead to Conspiracy to Distribute and Possess with Intent to Distribute Cocaine 21 USC §846; 21 USC §841(b)(1)(B) [Lesser Included Offense] 5 years to 40 years imprisonment/4-years Supervised Release (Class B felony).

Not to be overlooked, Petitioner's release status was impeccable as explained to the Court at the time of sentencing (1); such as:

Footnote (1): Petitioner worked a job while on bail (and self-surrendered); with no issues with the probation office and alike. (See Attachment #2 Sentencing transcripts pg 6-7)